

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 2560 – HB 2595

March 26, 2018

SUMMARY OF ORIGINAL BILL: Provides that in any proceeding to suspend, terminate, or discipline an employee in state service, the state has the burden to prove by a preponderance of the evidence that the employee violated state law or a rule or policy of the state agency prior to taking such action.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (016112): Deletes and rewrites the proposed legislation to clarify that the burden on the state only applies in matters where the employee is suspended, terminated, or disciplined “for cause”.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- In *Tennessee Department of Correction v. Pressley*, 528 S.W.3d 506, the Supreme Court of Tennessee held that under the TEAM Act, Public Chapter 800 of the Public Acts of 2012, a state employee does not have protected property interest in his or her continued employment, Id. at 519. The court also held that in actions to suspend, terminate, or discipline a state employee, the employee has the ultimate burden of proof. Id. at 523.
- The proposed legislation overturns the *Pressley* decision and places the ultimate burden of proof on the state and effectively gives a state employee a protected property interest in continued employment.
- The proposed legislation will not significantly impact the policies or operations of state departments and agencies.
- Under the TEAM Act, an employee’s employment ceases upon termination. Under the proposed legislation, the employee would remain employed until the appeals process is complete.

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- It is assumed that positions terminated under the TEAM Act are filled after a relatively short period of time. Therefore, the proposed legislation will not significantly impact state expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm